

Steve Kinsler

F-7

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII
726 MINNESOTA AVENUE
KANSAS CITY, KANSAS 66101

Site:	MARTHA
ID #:	MO2980633069
Break:	10.7
Other:	AR
9-26-86	

IN THE MATTER OF:

MARTHA C. ROSE CHEMICALS, INC.
Kansas City and Holden, Missouri,

and

JOHN R. STONITSCH, ESQ.
Trustee in Bankruptcy for
Martha C. Rose Chemicals, Inc.

and

AMERICAN STEEL WORKS, INC.
Kansas City and Holden, Missouri,

and

W.C. CAROLAN COMPANY, INC.
Kansas City and Holden, Missouri,

and

WALTER C. CAROLAN
Mission Hills, Kansas,

and

DWIGHT THOMAS

and

SHARON HAYES

and

CHARLES BUXTON

and

JAMES KNOX

and

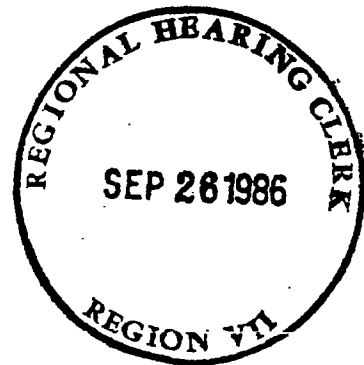
DONALD McCOY

Respondents.

Proceedings Under Section 106
(a) of the Comprehensive
Environmental Response,
Compensation, and Liability
Act of 1980, 42 U.S.C. §9606
(a).

Docket No. 86-F-0015

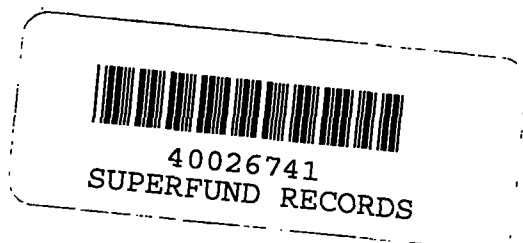
ORDER



RECEIVED

SEP 29 1986

CMPL SECTION



JURISDICTION

This Order is issued to Martha C. Rose Chemicals, Inc. (hereinafter Rose), John R. Stonitsh, Trustee in Bankruptcy for Respondent Rose (any reference to Respondents or Rose shall include the trustee in bankruptcy), American Steel Works, Inc. or Mo American Steel Works, Inc. (hereinafter American), W.C. Carolan Company, Inc. (hereinafter Carolan Company), Walter C. Carolan (hereinafter Carolan), Dwight Thomas (hereinafter Thomas), Sharon Hayes (hereinafter Hayes), Charles Buxton (hereinafter Buxton), James Knox (hereinafter Knox), and Donald McCoy (hereinafter McCoy), pursuant to Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. § 9606(a), by authority delegated to the undersigned official by the Administrator of the United States Environmental Protection Agency (EPA) by EPA Delegation Nos. 14-14-A and 14-14-B, dated April 16, 1984. Authority to issue this Order was delegated to the Administrator of EPA by Executive Order 12316 dated August 14, 1981, 46 Fed. Reg. 42237 et seq. (1981).

FINDINGS OF FACT

1. Respondent Rose, a Missouri Corporation, operated, from early 1982 until the present, a business primarily engaged in the brokerage of PCBs and PCB items, in the processing of PCB capacitors and transformers for disposal, and in the decontamination of mineral oil dielectric fluids contaminated with PCBs. The principal facility at which Rose operated the aforementioned business is located at 500 W. McKissock, Holden, Missouri (hereinafter the Holden facility).

2. The city of Holden owns the property, upon which Rose operates the aforementioned business, and leases the said property to Lear Siegler, Inc. (a Delaware Corporation authorized to do business in the State of Missouri) which subleases the said property to Carolan Company, a Missouri Corporation.

3. Respondent American, pursuant to an oral agreement with Carolan Company, operates a steel fabricating business at 500 W. McKissock, Holden, Missouri. Its indoor operations are performed in the same building where Rose operated its PCB-related business.

4. Rose pays rent on the said property to American, a Kansas Corporation authorized to do business in the State of Missouri.

5. Respondent Walter C. Carolan owns 100% of the capital stock of Carolan Company and American and 51% of the capital stock of Rose. Carolan is also the chief executive officer and President of Rose, American and Carolan Company.

6. The work force of Rose are employees of American and received paychecks from Carolan Company and American.

7. Under authority of 40 C.F.R. §761.60(e), EPA-Region VII issued to Rose: (1) an approval, effective March 15, 1983, to decontaminate mineral oil dielectric fluids contaminated with PCBs at concentrations equal to or less than 10,000 ppm (this approval expired March 15, 1986); (2) an approval, effective October 15, 1983, to process PCB capacitors for disposal; and (3) an approval, effective

July 1, 1984, to process PCB transformers for disposal. A condition of each approval was that Rose comply with all Federal environmental requirements.

8. As a result of an inspection of Rose's facility in Holden, Missouri, on or about November 3 and 4, 1983, it was determined that Rose was in violation of the regulations in 40 C.F.R. Part 761, promulgated pursuant to Section 6(e) of TSCA, 15 U.S.C. §2605(e), to-wit: the storage and marking of PCBs and PCB items (40 C.F.R. §§761.65 and 761.40, respectively).

9. As a result of the inspection referred to in paragraph 8, EPA issued a Complaint and Notice of Opportunity for Hearing to Rose on March 26, 1984, seeking penalties for the aforementioned violations. Rose and EPA entered into a Consent Agreement and Final Order whereby Rose admitted the violations, agreed to pay a civil penalty, and agreed to comply with certain provisions of 40 C.F.R. Part 761.

10. As a result of an inspection of Rose's facility conducted by EPA on or about August 7-15, 1984, it was determined that Rose had failed to comply with the provisions of the Consent Agreement and Final Order referred to in paragraph 9, and was in violation of the regulations in 40 C.F.R. Part 761, promulgated pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605(e), to-wit: the storage, marking and disposal of PCBs and inadequate recordkeeping regarding PCBs (40 C.F.R. §§761.65, 761.40, 761.60, and 761.180, respectively). Rose was also in violation of the conditions of each of the approvals specified in paragraph 7, in violation of 40 C.F.R. §761.60(e).

11. As a result of the inspection referred to in paragraph 10, EPA issued a Complaint and Notice of Opportunity for Hearing to Rose on February 25, 1985, seeking penalties for the aforementioned violations. On or about September 27, 1985, Rose and EPA entered into a Consent Agreement and Final Order whereby Rose agreed to pay a civil penalty and to come into compliance with the applicable PCB rules and regulations in 40 C.F.R. Part 761.

12. In mid-1985, the Occupational Safety and Health Administration (OSHA) conducted an inspection at the Holden facilities used by Rose and American and found, based on samples taken by OSHA, that the building, equipment, records, and other articles contained in the building were contaminated with PCBs. Rose and American were given notice of the results of this inspection.

13. Subsequent inspections of Rose's facility by EPA on December 19, 1985, January 7 and March 17, 1986, revealed continuing and additional marking, storage, disposal and distribution in commerce violations of the PCB regulations, 40 C.F.R. Part 761.

14. As part of Rose's operations, scrap metal from the processing of PCB items was salvaged and sold. In December of 1985, EPA collected samples from scrap metal distributed in commerce by Rose to two separate businesses in Kansas City, Missouri. Analyses of five (5) copper strip samples and seven (7) swab samples indicated the presence of PCBs in concentrations

ranging from 19 ug/100 cm² to 40,000 ug/100 cm². The said scrap metal had not been decontaminated by Rose in accordance with the requirements of condition #2 of both the transformer and capacitor processing for disposal approvals in violation of 40 C.F.R. §761.60(e). Rose was therefore also in violation of 40 C.F.R. §761.20(c) for distributing PCBs in commerce.

15. Respondent Rose has, since approximately March 1, 1986, ceased active operations onsite. A large inventory of PCBs, other hazardous substances, as well as generally widespread PCB contamination of equipment and materials located in buildings and elsewhere on site, exists at the Holden facility. PCBs have been improperly stored onsite longer than allowed under 40 C.F.R. § 761.65, thereby demonstrating Rose's unwillingness or asserted inability to properly dispose of PCBs and PCB items in accordance with 40 C.F.R. Part 761 and with the approvals specified in paragraph 7, above. In written statements to its customers (the generators of the PCBs) and EPA, Rose has expressed its unwillingness and inability to properly dispose of PCBs and PCB items at the Holden facility unless the generators of the said materials provide additional financial assistance.

16. On May 23, 1986, EPA issued an ORDER pursuant to Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. § 9606(a), Docket No. 86-F-0006, to among others, Martha C. Rose Chemicals, Inc., American Steel Works, Inc., W.C. Carolan Company, Inc., and Walter C. Carolan, which among other

requirements, prohibited Rose, their agents, representatives, employees and consultants from removing any PCBs or PCB items located at the Holden facility, unless such disposal, handling or removal was approved by EPA.

17. On July 8, 1986, an EPA inspector toured the facility and noted that equipment formerly known to be at the facility based on observations by OSHA and EPA inspectors, was gone.

18. An EPA inspector was informed that equipment and documents from the Holden facility had been taken to several other properties, (the satellite properties). The removal was directed by Rose and/or American officials and done by American employees. The properties where equipment and records were allegedly taken include two properties owned by or under the the control of Dwight Thomas (an employee of American), two properties owned by or under the control of Sharon Hayes (at the time an employee of American), property owned by or under the control of Charles Buxton, property owned by or under the control of James Knox and property owned by or under the control of Donald McCoy, to-wit:

Dwight Thomas:

Section 33, Township 46N, Range 27W
Johnson County, Missouri; and

Section 2, Township 45N, Range 27W
Johnson County, Missouri

Sharon Hayes:

Section 1, Township 45N, Range 28W
Johnson County, Missouri; and

Section 36, Township 46N, Range 28W
Johnson City, Missouri

Charles Buxton:

Property located 1.5 miles east of Holden, Missouri

Donald Knox:

Property adjoining Mr. Buxton's

Donald McCoy

100 W. Buffalo
Holden, Missouri 64040

19. On July 15, 1986, an EPA inspector served TSCA notices of inspection at the satellite properties to each of the above individuals named in paragraph 18, except James Knox. Inspections were conducted at satellite properties listed in paragraph 18, except for the Hayes properties and the Thomas properties. Respondents Hayes and Thomas denied access to inspect without a warrant.

20. On July 17, 1986, administrative warrants to inspect the properties of Sharon Hayes and Dwight Thomas were issued by United States Magistrate Ralston.

21. Inspections were conducted on July 18, 1986, pursuant to warrants at the Sharon Hayes' and Dwight Thomas' properties. Equipment, including three flatbed trailers registered to Martha C. Rose Chemicals Co. Inc., was observed, sampled and photographed at one of the Sharon Hayes' properties. This equipment had previously been observed by an EPA inspector at the Holden facility.

22. Analytical results on the samples taken at the various satellite properties indicated most items sampled were PCBs or PCB items as defined by 40 CFR § 761.3 (Attachment A). It is reasonable to assume that most equipment removed from the Holden facility is PCBs or PCB items as defined by 40 CFR § 761.3.

23. On September 6, 1986, EPA and the Federal Bureau of Investigation (FBI) received reports that equipment previously removed from the Holden facility to property owned or controlled by Sharon Hayes, was being removed again by unknown persons.

24. An FBI investigation determined that one flatbed trailer had been removed from the Hayes property to 2459 Charlotte Street, Kansas City, Missouri 64108. This address is known to be the location of offices for Rose, American, Carolan Company and Carolan. Mr. Dick Wagoner, owner and operator of Wagoner Truck Lines, told the FBI that his truck line had been contacted by a man who identified himself as J. Carolan, to engage his services to haul four trailers from the Hayes property to 2459 Charlotte Street, Kansas City, Missouri 64108. He said he was met at the Charlotte Street address, when he delivered the first trailer, by a man who identified himself as J. Carolan and paid \$200 in cash, the agreed price for the services.

25. Based on analytical results (see paragraph 22) done on a sample taken from equipment on this flatbed trailer as well as from the trailer itself during the July 18, 1986, inspection, the trailer and equipment are PCB items within the meaning of the PCB regulations, 40 CFR Part 761.

26. None of the satellite properties listed in paragraph 18 nor the property located at 2459 Charlotte Street, Kansas City, Missouri 64108, are proper PCB storage facilities pursuant to 40 CFR Part 761 and removal of PCB items to these locations without EPA approval are violations of 40 CFR Part 761 and the aforementioned ORDER, Docket No. 86-F-0006.

27. Based on the continuing violations of 40 CFR Part 761 and the CERCLA ORDER in Docket No. 86-F-0006 and the likelihood of continued attempts to remove PCB items without EPA approval, there exists actual releases and threatened future releases of PCBs and PCB items into the environment due to inadvertent contact as well as deliberate releases of PCBs into the environment.

CONCLUSIONS OF LAW

1. Respondents Rose, American, Carolan Company, Carolan, Dwight Thomas, Sharon Hayes, Charles Buxton, James Knox, and Donald McCoy, are each a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

2. PCBs are "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

3. The real property and buildings located at 500 W. McKissock, Holden, Missouri, and each and every other satellite property whereon PCBs or PCB items are located are each separately and/or together a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

4. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment which has occurred or which may occur constitutes a "release" as defined by Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

5. Removal and storage of PCBs and PCB items to the satellite properties defined in paragraph 18 above is in violation of 40 CFR Part 761 and the CERCLA ORDER, Docket No. 86-F-0006, issued on May 23, 1986.

DETERMINATION

Based on the foregoing Findings of Fact and Conclusions of Law, the undersigned has determined that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of the actual or threatened release of a hazardous substance from the facility(s). It has been further determined that in order to protect public health and welfare and the environment, it is necessary that the response actions, set forth in the following Order be undertaken. The response actions required by the terms of this Order are consistent with the National Contingency Plan, 40 CFR Part 300, and will prevent or mitigate immediate and significant risk of harm to human life or health and to the environment.

ORDER

IT IS HEREBY ORDERED AND DIRECTED THAT:

I. Immediate Action

1. All Respondents, their agents, representatives, employees, contractors and consultants shall take all measures necessary to protect human health and welfare and the environment, to secure all properties where PCB items are currently located, restrict access to the PCB items and prevent the further spread of PCB contamination from the equipment removed from the Holden facility. At a minimum, each area must be posted to indicate equipment is PCB contaminated and contact could be hazardous, equipment must be kept off the ground covered with a tarp or other EPA approved cover, and physical access to the equipment

must be restricted. By close of business September 30, 1986, Respondents shall each notify Ms. Martha Steincamp, in writing, concerning measures taken to comply with these provisions.

2. Unless otherwise specifically required by this ORDER, all Respondents, their agents, representatives, employees and consultants are immediately, upon receipt of this ORDER, prohibited from disposing of, handling or otherwise removing from its Charlotte Street facility or the satellite properties, any PCBs or PCB items unless such disposal, handling or removal is specifically approved by EPA and performed in the manner specified in the PCB rules and regulations at 40 C.F.R. Part 761.

3. By close of business October 1, 1986, each Respondent shall submit a complete inventory of all equipment removed from the Holden facility and presently located at its Charlotte Street facility and the satellite properties or any other properties. At a minimum, the inventory should specify type of equipment; the owner of the equipment; when and by whom the equipment was removed from the Holden facility; the location at the Holden facility from which it came and where it was removed to from the Holden facility. If after removal from Holden, it was stored at a location other than the one where it is located at the time of the inventory, that location should be noted also.

4. By close of business October 3, 1986, Respondents Rose, American, Carolan Company and Carolan, shall submit a plan

for EPA review and approval, detailing specific plans for relocation of items listed in the inventory to a facility approved by EPA; decontamination or disposal of the items; and a sampling/verification plan for any proposed decontamination effort. At a minimum, the decontamination plan should provide that:

- a. decontamination work will be done inside a building with a sealed floor, and within a curbed area, said curb to be 6 inches high and made of either steel or Portland cement, and
- b. solvent will be used which contains less than 2 ppm PCBs as flushing agent, and
- c. OSHA work place requirements shall apply to all personnel moving equipment and/or performing decontamination work, and
- d. all liquids, residue, and waste must be stored according to 761.65, must be marked according to 761.40, and records must be maintained according to 761.180, and
- e. decontamination of all items must be according to NIOSH requirements, and
- f. pressure spraying of solvents for decontamination is not an acceptable decontamination method.
- g. estimated cost of decontamination effort and proof of financial ability to carry out the decontamination effort or in the event decontamination is not feasible, disposal at an appropriate disposal facility, must be submitted and accepted prior to commencing work.

5. After review and approval of the inventory and above rrequired written plans by EPA, Respondents Rose, American, Carolan Company and Carolan shall proceed to implement said approved plans. Decontamination or disposal activities shall be completed by no later than December 15, 1986.

6. Within five (5) days after completion of decontamination or disposal of said equipment, Respondents Rose, American, Carolan Company and Carolan, shall notify Ms. Martha Steincamp of the following:

- a. Specify which items listed on the inventory required by paragraph 3, were decontaminated according to the EPA approved plan, and submit results of verification sampling to EPA. Until EPA approves the results of verification sampling, the equipment purportedly decontaminated cannot be moved, sold, rented or otherwise used.
- b. For those inventory items for which decontamination was not feasible, submit appropriate papers documenting that the items have been properly disposed of.

7. At the request of EPA, Respondents shall allow split or duplicate samples to be taken by EPA and/or their authorized representatives, of any samples collected by Respondents Rose, American, Carolan Company and Carolan, pursuant to the implementation of this ORDER.

8. All sampling and analyses shall be done pursuant to EPA protocols. Samples taken by all Respondents shall be handled according to the chain-of-custody procedures

established by the EPA National Enforcement Investigation Center (hereinafter "NEIC"). Before disposal of any samples by Respondents Rose, American, Carolan Company and Carolan, EPA shall be given thirty (30) days notice and opportunity to take possession of such samples.

9. Representatives of EPA and appropriate state and local government authorities shall have access to the decontamination facility at all reasonable times in order to observe and monitor the progress of response activities and to take samples.

10. Within twenty days of receipt of this ORDER, Respondents Rose, American, Carolan Company and Carolan shall submit to EPA a sampling plan covering all areas where equipment removed from the Holden facility was located. The purpose of the sampling plan is to provide verification that PCB contamination has not been spread to the ground or buildings where equipment removed from the Holden facility was stored.

11. After EPA approval of the sampling plan, Respondents Rose, American, Carolan Company and Carolan shall implement the sampling plan and submit analytical results to EPA within thirty days of approval of the plan.

12. EPA will review the results and may issue further amendments to this ORDER requiring additional remedial activities at locations where PCB contamination levels may present an imminent and substantial endangerment to the public health and environment.

13. To the extent that sampling or cleanup and abatement work is required, Respondents Rose, American, Carolan Company and Carolan shall use their best efforts to obtain site access agreements from the other Respondents named in this ORDER. Access agreements shall provide for complete access by EPA and its authorized representatives and contractors.

14. In the event Respondents Rose, American, Carolan Company and Carolan are unwilling to carry out the provisions of this ORDER, Respondents Dwight Thomas, Sharon Hayes, Charles Buxton, James Knox and Donald McCoy shall be responsible for carrying out the requirements of this ORDER unless they grant unrestricted access to EPA, its authorized representatives and contractors, to remove items identified in the inventory and sample the ground and buildings, where appropriate, to determine whether PCB contamination has been released from said equipment. In the event sampling indicates PCB contamination has been released from the equipment to surrounding environment, Respondents Rose, American, Carolan Company and Carolan shall take all necessary measures to clean up or remove the PCB contamination according to plans approved by EPA. If Respondents Rose, American, Carolan Company and Carolan are unwilling to perform the necessary cleanup, Respondents Thomas, Hayes, Buxton, Knox and McCoy shall be required to carry out a cleanup and removal of PCB contamination according to plans approved by EPA. If Respondents Thomas, Hayes, Buxton, Knox and McCoy are unwilling to carry out the

required cleanup and removal actions, they shall grant EPA complete access to take whatever measures are necessary.

II. Record Preservation

15. Respondents shall preserve, during the pendency of this ORDER and for a minimum of six (6) years after its termination, all records and documents in its possession or in the possession of its divisions, employees, agents, accountants, contractors, or attorneys which relate in any way to this matter despite any document retention policy to the contrary unless otherwise directed by the EPA in writing. After this six year period, Respondents shall notify EPA at least thirty (30) calendar days prior to the destruction of any such documents. Upon request by EPA, the Respondents shall make available to EPA any records or copies of any records.

III. Availability of Information

16. All information submitted to EPA by Respondents shall be made available to the public without further notice to Respondents unless said information is claimed by Respondents and determined by EPA to be confidential in accordance with 40 C.F.R. Part 2, Subpart B (1985), as amended by 50 Federal Register 51654 (December 18, 1985). Information determined to be confidential will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B, as amended. Analytical data shall not be claimed as confidential by Respondent.

IV. Compliance With Other Laws

17. All actions undertaken pursuant to this ORDER by Respondents or their representatives shall be done in accordance with all applicable federal, state, and local laws and regulations.

V. Reservation of Rights

18. EPA reserves the right to take any enforcement action pursuant to CERCLA and/or any available legal authority, including the right to seek injunctive relief, monetary penalties, punitive damages and cost recovery for any violation of law or this ORDER.

19. EPA expressly reserves all rights and defenses it may have, including the right to disapprove work done by Respondents and the right to request that Respondents perform tasks in addition to those detailed in this ORDER.

20. In the event that Respondents fail to comply with the terms of this ORDER, EPA reserves the right to undertake cleanup actions at any time. EPA reserves the right to seek reimbursement from Respondents thereafter for such costs incurred by the United States.

VI. Non-Liability of Federal Government

21. The Federal Government shall not be liable for any injuries or damages to persons or property resulting from acts or omissions of Respondents, their employees, agents or contractors in carrying out the activities pursuant to this ORDER, nor shall the Federal Government be held out as a party

to any contract entered into by Respondents, their employees or contractors in carrying out activities pursuant to this ORDER.

VII. Parties Bound

22. This ORDER shall apply to and be binding upon the Respondents, their officers, directors, agents, employees, contractors, successors and assigns.

VIII. Opportunity to Confer

23. By close of business September 29, 1986, Respondents may request a conference with EPA to discuss the terms and conditions of this ORDER, including its applicability, the factual determinations forming the basis of the ORDER, the appropriateness of any actions required of Respondents by this ORDER, or any other relevant and material issues which they may have regarding this ORDER. Any request for a conference should be made to Martha Steincamp, Office of Regional Counsel, EPA, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, telephone (913) 236-2811.

IX. Notice to State

24. EPA has provided notice to the State of Missouri of the issuance of this ORDER.

X. Effective Date

25. This ORDER is effective immediately upon receipt by the Respondents. All times for performance or response activities shall be calculated from that date, unless otherwise specified in this ORDER.

XI. Penalties For Non-Compliance

26. Respondents are hereby advised that:

- a. Pursuant to Section 106(b) of CERCLA, 42 U.S.C. § 9606(a), any person who willfully violates or fails or refuses to comply with this ORDER may, in an action brought in the appropriate United States District Court to enforce this ORDER, be fined not more than \$5,000 for each day in which such violation occurs or such failure to comply continues; and
- b. Pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3), any person who is liable for a release or threat of release of a hazardous substance and who fails without sufficient cause to properly provide the actions specified in this ORDER may be liable to the United States for punitive damages in an amount at least equal to and not more than three times, the amount of any costs incurred by the government as a result of such failure to take proper actions.

IT IS SO ORDERED.

9/26/86
Date

for William R. Kay
Morris Kay
Regional Administrator
Region VII
U.S. Environmental Protection
Agency

9/26/86
Date

Martha R. Steincamp
Martha R. Steincamp
Deputy Regional Counsel
Region VII
U.S. Environmental Protection
Agency
726 Minnesota Avenue
Kansas City, Kansas 66101
913-236-2811

CERTIFICATE OF SERVICE

I hereby certify that the original and one copy of this ORDER were filed with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, and that copies were sent to each of the following by certified mail, return receipt requested:

Martha C. Rose Chemicals, Inc.
2459 Charlotte
Kansas City, Missouri 64108

John R. Stonitsch, Esq.
Trustee in Bankruptcy
of Martha C. Rose Chemicals, Inc.
1300 Locust
Kansas City, Missouri 64106

American Steel Works, Inc.
2459 Charlotte
Kansas City, Missouri 64108

W.C. Carolan Company, Inc.
2459 Charlotte
Kansas City, Missouri 64108

Walter C. Carolan
6435 Wenonga Road
Mission Hills, Kansas 66209

Dwight Thomas
C/O American Steel
2459 Charlotte
Kansas City, Missouri 64108

Sharon Hayes
Route 3, Box 82060
Holden, Missouri 64040

James Knox
Holden, Missouri - not known

Charles Buxton
Box 14850, Route 3
Holden, Missouri 64040

Donald McCoy
100 N. Buffalo
Holden, Missouri 64040

James Anderson, Esq.
818 Grand Avenue
Kansas City, Missouri 64106

and copies were hand carried to Robert L. Morby and
Steve Kinser, U.S. EPA Waste Management Division, Superfund
Branch, on this the 26th day of September, 1986.

Mary A. La Sala

C

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII
726 MINNESOTA AVENUE
KANSAS CITY, KANSAS 66101

Robert Morley
C. Rose new non-Rose AdS
SEK

IN THE MATTER OF:

MARTHA C. ROSE CHEMICALS, INC.
Kansas City and Holden, Missouri,

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JOHN R. STONITSCH, ESQ.
Trustee in Bankruptcy for
Martha C. Rose Chemicals, Inc.

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Respondents.

Proceedings Under Section 106
(a) of the Comprehensive
Environmental Response,
Compensation, and Liability
Act of 1980, 42 U.S.C. §9606
(a).

Docket No. 86-F-0015

ORDER



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SUPERFUND BRANCH

Order

10.7

9-26-86

JURISDICTION

This Order is issued to Martha C. Rose Chemicals, Inc. (hereinafter Rose), John R. Stonitsh, Trustee in Bankruptcy for Respondent Rose (any reference to Respondents or Rose shall include the trustee in bankruptcy), American Steel Works, Inc. or Mo American Steel Works, Inc. (hereinafter American), W.C. Carolan Company, Inc. (hereinafter Carolan Company), Walter C. Carolan (hereinafter Carolan), Dwight Thomas (hereinafter Thomas), Sharon Hayes (hereinafter Hayes), Charles Buxton (hereinafter Buxton), James Knox (hereinafter Knox), and Donald McCoy (hereinafter McCoy), pursuant to Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. § 9606(a), by authority delegated to the undersigned official by the Administrator of the United States Environmental Protection Agency (EPA) by EPA Delegation Nos. 14-14-A and 14-14-B, dated April 16, 1984. Authority to issue this Order was delegated to the Administrator of EPA by Executive Order 12316 dated August 14, 1981, 46 Fed. Reg. 42237 et seq. (1981).

FINDINGS OF FACT

1. Respondent Rose, a Missouri Corporation, operated, from early 1982 until the present, a business primarily engaged in the brokerage of PCBs and PCB items, in the processing of PCB capacitors and transformers for disposal, and in the decontamination of mineral oil dielectric fluids contaminated with PCBs. The principal facility at which Rose operated the aforementioned business is located at 500 W. McKissock, Holden, Missouri (hereinafter the Holden facility).

2. The city of Holden owns the property, upon which Rose operates the aforementioned business, and leases the said property to Lear Siegler, Inc. (a Delaware Corporation authorized to do business in the State of Missouri) which subleases the said property to Carolan Company, a Missouri Corporation.

3. Respondent American, pursuant to an oral agreement with Carolan Company, operates a steel fabricating business at 500 W. McKissock, Holden, Missouri. Its indoor operations are performed in the same building where Rose operated its PCB-related business.

4. Rose pays rent on the said property to American, a Kansas Corporation authorized to do business in the State of Missouri.

5. Respondent Walter C. Carolan owns 100% of the capital stock of Carolan Company and American and 51% of the capital stock of Rose. Carolan is also the chief executive officer and President of Rose, American and Carolan Company.

6. The work force of Rose are employees of American and received paychecks from Carolan Company and American.

7. Under authority of 40 C.F.R. §761.60(e), EPA-Region VII issued to Rose: (1) an approval, effective March 15, 1983, to decontaminate mineral oil dielectric fluids contaminated with PCBs at concentrations equal to or less than 10,000 ppm (this approval expired March 15, 1986); (2) an approval, effective October 15, 1983, to process PCB capacitors for disposal; and (3) an approval, effective

July 1, 1984, to process PCB transformers for disposal. A condition of each approval was that Rose comply with all Federal environmental requirements.

8. As a result of an inspection of Rose's facility in Holden, Missouri, on or about November 3 and 4, 1983, it was determined that Rose was in violation of the regulations in 40 C.F.R. Part 761, promulgated pursuant to Section 6(e) of TSCA, 15 U.S.C. §2605(e), to-wit: the storage and marking of PCBs and PCB items (40 C.F.R. §§761.65 and 761.40, respectively).

9. As a result of the inspection referred to in paragraph 8, EPA issued a Complaint and Notice of Opportunity for Hearing to Rose on March 26, 1984, seeking penalties for the aforementioned violations. Rose and EPA entered into a Consent Agreement and Final Order whereby Rose admitted the violations, agreed to pay a civil penalty, and agreed to comply with certain provisions of 40 C.F.R. Part 761.

10. As a result of an inspection of Rose's facility conducted by EPA on or about August 7-15, 1984, it was determined that Rose had failed to comply with the provisions of the Consent Agreement and Final Order referred to in paragraph 9, and was in violation of the regulations in 40 C.F.R. Part 761, promulgated pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605(e), to-wit: the storage, marking and disposal of PCBs and inadequate recordkeeping regarding PCBs (40 C.F.R. §§761.65, 761.40, 761.60, and 761.180, respectively). Rose was also in violation of the conditions of each of the approvals specified in paragraph 7, in violation of 40 C.F.R. §761.60(e).

11. As a result of the inspection referred to in paragraph 10, EPA issued a Complaint and Notice of Opportunity for Hearing to Rose on February 25, 1985, seeking penalties for the aforementioned violations. On or about September 27, 1985, Rose and EPA entered into a Consent Agreement and Final Order whereby Rose agreed to pay a civil penalty and to come into compliance with the applicable PCB rules and regulations in 40 C.F.R. Part 761.

12. In mid-1985, the Occupational Safety and Health Administration (OSHA) conducted an inspection at the Holden facilities used by Rose and American and found, based on samples taken by OSHA, that the building, equipment, records, and other articles contained in the building were contaminated with PCBs. Rose and American were given notice of the results of this inspection.

13. Subsequent inspections of Rose's facility by EPA on December 19, 1985, January 7 and March 17, 1986, revealed continuing and additional marking, storage, disposal and distribution in commerce violations of the PCB regulations, 40 C.F.R. Part 761.

14. As part of Rose's operations, scrap metal from the processing of PCB items was salvaged and sold. In December of 1985, EPA collected samples from scrap metal distributed in commerce by Rose to two separate businesses in Kansas City, Missouri. Analyses of five (5) copper strip samples and seven (7) swab samples indicated the presence of PCBs in concentrations

ranging from 19 ug/100 cm² to 40,000 ug/100 cm². The said scrap metal had not been decontaminated by Rose in accordance with the requirements of condition #2 of both the transformer and capacitor processing for disposal approvals in violation of 40 C.F.R. §761.60(e). Rose was therefore also in violation of 40 C.F.R. §761.20(c) for distributing PCBs in commerce.

15. Respondent Rose has, since approximately March 1, 1986, ceased active operations onsite. A large inventory of PCBs, other hazardous substances, as well as generally widespread PCB contamination of equipment and materials located in buildings and elsewhere on site, exists at the Holden facility. PCBs have been improperly stored onsite longer than allowed under 40 C.F.R. § 761.65, thereby demonstrating Rose's unwillingness or asserted inability to properly dispose of PCBs and PCB items in accordance with 40 C.F.R. Part 761 and with the approvals specified in paragraph 7, above. In written statements to its customers (the generators of the PCBs) and EPA, Rose has expressed its unwillingness and inability to properly dispose of PCBs and PCB items at the Holden facility unless the generators of the said materials provide additional financial assistance.

16. On May 23, 1986, EPA issued an ORDER pursuant to Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. § 9606(a), Docket No. 86-F-0006, to among others, Martha C. Rose Chemicals, Inc., American Steel Works, Inc., W.C. Carolan Company, Inc., and Walter C. Carolan, which among other

requirements, prohibited Rose, their agents, representatives, employees and consultants from removing any PCBs or PCB items located at the Holden facility, unless such disposal, handling or removal was approved by EPA.

17. On July 8, 1986, an EPA inspector toured the facility and noted that equipment formerly known to be at the facility based on observations by OSHA and EPA inspectors, was gone.

18. An EPA inspector was informed that equipment and documents from the Holden facility had been taken to several other properties, (the satellite properties). The removal was directed by Rose and/or American officials and done by American employees. The properties where equipment and records were allegedly taken include two properties owned by or under the the control of Dwight Thomas (an employee of American), two properties owned by or under the control of Sharon Hayes (at the time an employee of American), property owned by or under the control of Charles Buxton, property owned by or under the control of James Knox and property owned by or under the control of Donald McCoy, to-wit:

✓ Dwight Thomas:

Section 33, Township 46N, Range 27W
Johnson County, Missouri; and

Section 2, Township 45N, Range 27W
Johnson County, Missouri

2 Sharon Hayes:

Section 1, Township 45N, Range 28W
Johnson County, Missouri; and

Section 36, Township 46N, Range 28W
Johnson City, Missouri

3 Charles Buxton:

Property located 1.5 miles east of Holden, Missouri

4 Donald Knox:

Property adjoining Mr. Buxton's

5 Donald McCoy

100 W. Buffalo
Holden, Missouri 64040

19. On July 15, 1986, an EPA inspector served TSCA notices of inspection at the satellite properties to each of the above individuals named in paragraph 18, except James Knox. Inspections were conducted at satellite properties listed in paragraph 18, except for the Hayes properties and the Thomas properties. Respondents Hayes and Thomas denied access to inspect without a warrant.

20. On July 17, 1986, administrative warrants to inspect the properties of Sharon Hayes and Dwight Thomas were issued by United States Magistrate Ralston.

21. Inspections were conducted on July 18, 1986, pursuant to warrants at the Sharon Hayes' and Dwight Thomas' properties. Equipment, including three flatbed trailers registered to Martha C. Rose Chemicals Co. Inc., was observed, sampled and photographed at one of the Sharon Hayes' properties. This equipment had previously been observed by an EPA inspector at the Holden facility.

22. Analytical results on the samples taken at the various satellite properties indicated most items sampled were PCBs or PCB items as defined by 40 CFR § 761.3 (Attachment A). It is reasonable to assume that most equipment removed from the Holden facility is PCBs or PCB items as defined by 40 CFR § 761.3.

23. On September 6, 1986, EPA and the Federal Bureau of Investigation (FBI) received reports that equipment previously removed from the Holden facility to property owned or controlled by Sharon Hayes, was being removed again by unknown persons.

24. An FBI investigation determined that one flatbed trailer had been removed from the Hayes property to 2459 Charlotte Street, Kansas City, Missouri 64108. This address is known to be the location of offices for Rose, American, Carolan Company and Carolan. Mr. Dick Wagoner, owner and operator of Wagoner Truck Lines, told the FBI that his truck line had been contacted by a man who identified himself as J. Carolan, to engage his services to haul four trailers from the Hayes property to 2459 Charlotte Street, Kansas City, Missouri 64108. He said he was met at the Charlotte Street address, when he delivered the first trailer, by a man who identified himself as J. Carolan and paid \$200 in cash, the agreed price for the services.

25. Based on analytical results (see paragraph 22) done on a sample taken from equipment on this flatbed trailer as well as from the trailer itself during the July 18, 1986, inspection, the trailer and equipment are PCB items within the meaning of the PCB regulations, 40 CFR Part 761.

26. None of the satellite properties listed in paragraph 18 nor the property located at 2459 Charlotte Street, Kansas City, Missouri 64108, are proper PCB storage facilities pursuant to 40 CFR Part 761 and removal of PCB items to these locations without EPA approval are violations of 40 CFR Part 761 and the aforementioned ORDER, Docket No. 86-F-0006.

27. Based on the continuing violations of 40 CFR Part 761 and the CERCLA ORDER in Docket No. 86-F-0006 and the likelihood of continued attempts to remove PCB items without EPA approval, there exists actual releases and threatened future releases of PCBs and PCB items into the environment due to inadvertent contact as well as deliberate releases of PCBs into the environment.

CONCLUSIONS OF LAW

1. Respondents Rose, American, Carolan Company, Carolan, Dwight Thomas, Sharon Hayes, Charles Buxton, James Knox, and Donald McCoy, are each a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

2. PCBs are "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

3. The real property and buildings located at 500 W. McKissock, Holden, Missouri, and each and every other satellite property whereon PCBs or PCB items are located are each separately and/or together a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

4. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment which has occurred or which may occur constitutes a "release" as defined by Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

5. Removal and storage of PCBs and PCB items to the satellite properties defined in paragraph 18 above is in violation of 40 CFR Part 761 and the CERCLA ORDER, Docket No. 86-F-0006, issued on May 23, 1986.

DETERMINATION

Based on the foregoing Findings of Fact and Conclusions of Law, the undersigned has determined that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of the actual or threatened release of a hazardous substance from the facility(s). It has been further determined that in order to protect public health and welfare and the environment, it is necessary that the response actions, set forth in the following Order be undertaken. The response actions required by the terms of this Order are consistent with the National Contingency Plan, 40 CFR Part 300, and will prevent or mitigate immediate and significant risk of harm to human life or health and to the environment.

ORDER

IT IS HEREBY ORDERED AND DIRECTED THAT:

I. Immediate Action

1. All Respondents, their agents, representatives, employees, contractors and consultants shall take all measures necessary to protect human health and welfare and the environment, to secure all properties where PCB items are currently located, restrict access to the PCB items and prevent the further spread of PCB contamination from the equipment removed from the Holden facility. At a minimum, each area must be posted to indicate equipment is PCB contaminated and contact could be hazardous, equipment must be kept off the ground covered with a tarp or other EPA approved cover, and physical access to the equipment

must be restricted. By close of business September 30, 1986, Respondents shall each notify Ms. Martha Steincamp, in writing, concerning measures taken to comply with these provisions.

2. Unless otherwise specifically required by this ORDER, all Respondents, their agents, representatives, employees and consultants are immediately, upon receipt of this ORDER, prohibited from disposing of, handling or otherwise removing from its Charlotte Street facility or the satellite properties, any PCBs or PCB items unless such disposal, handling or removal is specifically approved by EPA and performed in the manner specified in the PCB rules and regulations at 40 C.F.R. Part 761.

3. By close of business October 1, 1986, each Respondent shall submit a complete inventory of all equipment removed from the Holden facility and presently located at its Charlotte Street facility and the satellite properties or any other properties. At a minimum, the inventory should specify type of equipment; the owner of the equipment; when and by whom the equipment was removed from the Holden facility; the location at the Holden facility from which it came and where it was removed to from the Holden facility. If after removal from Holden, it was stored at a location other than the one where it is located at the time of the inventory, that location should be noted also.

4. By close of business October 3, 1986, Respondents Rose, American, Carolan Company and Carolan, shall submit a plan

for EPA review and approval, detailing specific plans for relocation of items listed in the inventory to a facility approved by EPA; decontamination or disposal of the items; and a sampling/verification plan for any proposed decontamination effort. At a minimum, the decontamination plan should provide that:

- a. decontamination work will be done inside a building with a sealed floor, and within a curbed area, said curb to be 6 inches high and made of either steel or Portland cement, and
- b. solvent will be used which contains less than 2 ppm PCBs as flushing agent, and
- c. OSHA work place requirements shall apply to all personnel moving equipment and/or performing decontamination work, and
- d. all liquids, residue, and waste must be stored according to 761.65, must be marked according to 761.40, and records must be maintained according to 761.180, and
- e. decontamination of all items must be according to NIOSH requirements, and
- f. pressure spraying of solvents for decontamination is not an acceptable decontamination method.
- g. estimated cost of decontamination effort and proof of financial ability to carry out the decontamination effort or in the event decontamination is not feasible, disposal at an appropriate disposal facility, must be submitted and accepted prior to commencing work.

5. After review and approval of the inventory and above rrequired written plans by EPA, Respondents Rose, American, Carolan Company and Carolan shall proceed to implement said approved plans. Decontamination or disposal activities shall be completed by no later than December 15, 1986.

6. Within five (5) days after completion of decontamination or disposal of said equipment, Respondents Rose, American, Carolan Company and Carolan, shall notify Ms. Martha Steincamp of the following:

- a. Specify which items listed on the inventory required by paragraph 3, were decontaminated according to the EPA approved plan, and submit results of verification sampling to EPA. Until EPA approves the results of verification sampling, the equipment purportedly decontaminated cannot be moved, sold, rented or otherwise used.
- b. For those inventory items for which decontamination was not feasible, submit appropriate papers documenting that the items have been properly disposed of.

7. At the request of EPA, Respondents shall allow split or duplicate samples to be taken by EPA and/or their authorized representatives, of any samples collected by Respondents Rose, American, Carolan Company and Carolan, pursuant to the implementation of this ORDER.

8. All sampling and analyses shall be done pursuant to EPA protocols. Samples taken by all Respondents shall be handled according to the chain-of-custody procedures

established by the EPA National Enforcement Investigation Center (hereinafter "NEIC"). Before disposal of any samples by Respondents Rose, American, Carolan Company and Carolan, EPA shall be given thirty (30) days notice and opportunity to take possession of such samples.

9. Representatives of EPA and appropriate state and local government authorities shall have access to the decontamination facility at all reasonable times in order to observe and monitor the progress of response activities and to take samples.

10. Within twenty days of receipt of this ORDER, Respondents Rose, American, Carolan Company and Carolan shall submit to EPA a sampling plan covering all areas where equipment removed from the Holden facility was located. The purpose of the sampling plan is to provide verification that PCB contamination has not been spread to the ground or buildings where equipment removed from the Holden facility was stored.

11. After EPA approval of the sampling plan, Respondents Rose, American, Carolan Company and Carolan shall implement the sampling plan and submit analytical results to EPA within thirty days of approval of the plan.

12. EPA will review the results and may issue further amendments to this ORDER requiring additional remedial activities at locations where PCB contamination levels may present an imminent and substantial endangerment to the public health and environment.

13. To the extent that sampling or cleanup and abatement work is required, Respondents Rose, American, Carolan Company and Carolan shall use their best efforts to obtain site access agreements from the other Respondents named in this ORDER. Access agreements shall provide for complete access by EPA and its authorized representatives and contractors.

14. In the event Respondents Rose, American, Carolan Company and Carolan are unwilling to carry out the provisions of this ORDER, Respondents Dwight Thomas, Sharon Hayes, Charles Buxton, James Knox and Donald McCoy shall be responsible for carrying out the requirements of this ORDER unless they grant unrestricted access to EPA, its authorized representatives and contractors, to remove items identified in the inventory and sample the ground and buildings, where appropriate, to determine whether PCB contamination has been released from said equipment. In the event sampling indicates PCB contamination has been released from the equipment to surrounding environment, Respondents Rose, American, Carolan Company and Carolan shall take all necessary measures to clean up or remove the PCB contamination according to plans approved by EPA. If Respondents Rose, American, Carolan Company and Carolan are unwilling to perform the necessary cleanup, Respondents Thomas, Hayes, Buxton, Knox and McCoy shall be required to carry out a cleanup and removal of PCB contamination according to plans approved by EPA. If Respondents Thomas, Hayes, Buxton, Knox and McCoy are unwilling to carry out the

required cleanup and removal actions, they shall grant EPA complete access to take whatever measures are necessary.

II. Record Preservation

15. Respondents shall preserve, during the pendency of this ORDER and for a minimum of six (6) years after its termination, all records and documents in its possession or in the possession of its divisions, employees, agents, accountants, contractors, or attorneys which relate in any way to this matter despite any document retention policy to the contrary unless otherwise directed by the EPA in writing. After this six year period, Respondents shall notify EPA at least thirty (30) calendar days prior to the destruction of any such documents. Upon request by EPA, the Respondents shall make available to EPA any records or copies of any records.

III. Availability of Information

16. All information submitted to EPA by Respondents shall be made available to the public without further notice to Respondents unless said information is claimed by Respondents and determined by EPA to be confidential in accordance with 40 C.F.R. Part 2, Subpart B (1985), as amended by 50 Federal Register 51654 (December 18, 1985). Information determined to be confidential will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B, as amended. Analytical data shall not be claimed as confidential by Respondent.

IV. Compliance With Other Laws

17. All actions undertaken pursuant to this ORDER by Respondents or their representatives shall be done in accordance with all applicable federal, state, and local laws and regulations.

V. Reservation of Rights

18. EPA reserves the right to take any enforcement action pursuant to CERCLA and/or any available legal authority, including the right to seek injunctive relief, monetary penalties, punitive damages and cost recovery for any violation of law or this ORDER.

19. EPA expressly reserves all rights and defenses it may have, including the right to disapprove work done by Respondents and the right to request that Respondents perform tasks in addition to those detailed in this ORDER.

20. In the event that Respondents fail to comply with the terms of this ORDER, EPA reserves the right to undertake cleanup actions at any time. EPA reserves the right to seek reimbursement from Respondents thereafter for such costs incurred by the United States.

VI. Non-Liability of Federal Government

21. The Federal Government shall not be liable for any injuries or damages to persons or property resulting from acts or omissions of Respondents, their employees, agents or contractors in carrying out the activities pursuant to this ORDER, nor shall the Federal Government be held out as a party

to any contract entered into by Respondents, their employees or contractors in carrying out activities pursuant to this ORDER.

VII. Parties Bound

22. This ORDER shall apply to and be binding upon the Respondents, their officers, directors, agents, employees, contractors, successors and assigns.

VIII. Opportunity to Confer

23. By close of business September 29, 1986, Respondents may request a conference with EPA to discuss the terms and conditions of this ORDER, including its applicability, the factual determinations forming the basis of the ORDER, the appropriateness of any actions required of Respondents by this ORDER, or any other relevant and material issues which they may have regarding this ORDER. Any request for a conference should be made to Martha Steincamp, Office of Regional Counsel, EPA, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, telephone (913) 236-2811.

IX. Notice to State

24. EPA has provided notice to the State of Missouri of the issuance of this ORDER.

X. Effective Date

25. This ORDER is effective immediately upon receipt by the Respondents. All times for performance or response activities shall be calculated from that date, unless otherwise specified in this ORDER.

XI. Penalties For Non-Compliance

26. Respondents are hereby advised that:

- a. Pursuant to Section 106(b) of CERCLA, 42 U.S.C. § 9606(a), any person who willfully violates or fails or refuses to comply with this ORDER may, in an action brought in the appropriate United States District Court to enforce this ORDER, be fined not more than \$5,000 for each day in which such violation occurs or such failure to comply continues; and
- b. Pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3), any person who is liable for a release or threat of release of a hazardous substance and who fails without sufficient cause to properly provide the actions specified in this ORDER may be liable to the United States for punitive damages in an amount at least equal to and not more than three times, the amount of any costs incurred by the government as a result of such failure to take proper actions.

IT IS SO ORDERED.

9/26/86
Date

for William Lee
Morris Kay
Regional Administrator
Region VII
U.S. Environmental Protection
Agency

9/26/86
Date

Martha R. Steincamp
Martha R. Steincamp
Deputy Regional Counsel
Region VII
U.S. Environmental Protection
Agency
726 Minnesota Avenue
Kansas City, Kansas 66101
913-236-2811

CERTIFICATE OF SERVICE

I hereby certify that the original and one copy of this ORDER were filed with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, and that copies were sent to each of the following by certified mail, return receipt requested:

Martha C. Rose Chemicals, Inc.
2459 Charlotte
Kansas City, Missouri 64108

John R. Stonitsch, Esq.
Trustee in Bankruptcy
of Martha C. Rose Chemicals, Inc.
1300 Locust
Kansas City, Missouri 64106

American Steel Works, Inc.
2459 Charlotte
Kansas City, Missouri 64108

W.C. Carolan Company, Inc.
2459 Charlotte
Kansas City, Missouri 64108

Walter C. Carolan
6435 Wenonga Road
Mission Hills, Kansas 66209

Dwight Thomas
C/O American Steel
2459 Charlotte
Kansas City, Missouri 64108

Sharon Hayes
Route 3, Box 82060
Holden, Missouri 64040

James Knox
Holden, Missouri - not known

Charles Buxton
Box 14850, Route 3
Holden, Missouri 64040

Donald McCoy
100 N. Buffalo
Holden, Missouri 64040

James Anderson, Esq.
818 Grand Avenue
Kansas City, Missouri 64106

and copies were hand carried to Robert L. Morby and
Steve Kinser, U.S. EPA Waste Management Division, Superfund
Branch, on this the 26th day of September, 1986.

Mary A. La Sala